

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF TEXAS
Houston Division

HOUSTON INDUSTRIES INCORPORATED,)

Plaintiff—Cross-Respondent,)

vs.)

No. 95-CV-5237

DANIEL C. KAUFMAN, *et al.*,)

Defendants—Cross-Petitioner.)

**CROSS-PETITION FOR ENFORCEMENT OF CIVIL
INVESTIGATIVE DEMAND NO. 13591 AND ANSWER
TO PETITION TO SET ASIDE OR MODIFY**

An investigative subpoena, Civil Investigative Demand No. 13591 (the "CID"), was served on Houston Industries Incorporated ("HII") on October 25, 1995. HII failed to produce any documentary material or interrogatory answers on the return date set forth in the CID. HII instead filed, out of time, a petition to set aside or modify the CID. In this pleading, the United States of America (1) cross-petitions for an order enforcing the CID and (2) answers the petition filed by HII to set aside or modify the CID.

CROSS-PETITION FOR ENFORCEMENT

1. In enacting and amending the Antitrust Civil Process Act ("ACPA"), 15 U.S.C. §§1311 *et seq.* (1994), Congress provided the Government with broad pre-complaint discovery powers to investigate possible violations of the federal antitrust laws. More specifically, ACPA Section 3(a), 15 U.S.C. §1312(a) (1994), empowers the Attorney General and the Assistant Attorney General in charge of the Antitrust Division of the United States Department of Justice to issue a civil investigative demand to any person who they have reason to believe "may be in possession, custody, or control of any documentary material, or may have information, relevant to a civil antitrust investigation." Such a civil investigative demand may require the recipient "to produce such documentary material for inspection and copying or